IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2537 OF 2005

Rajasthan Vidyarthi Griha ..Petitioner
Versus
Indian Labour Organisation ..Respondent

Mr.M.S.Topkar for petitioner

CORAM : P.V.KAKADE, J.

DATE : 21ST NOVEMBER,2005

P.C.:

1. Heard. Rule. Rule made returnable forthwith.

2. The Petitioner has filed this petition challenging the order dated 6.12.2004 passed by the Industrial Court, Mumbai allowing the respondents' application to examine 12 more witnesses with liberty to the respondents to cross-examine the witnesses and to lead evidence in rebuttal, if any, with direction the complaint to proceed further.

3. The Petitioner seeks to set aside the order dated 6.12.2004 passed below Exh.U-44 of the said

Complaint ULP No.994 of 1996 with directions as noted above. The application was to seek permission for oral examination of 12 workmen, whose names were mentioned in Annexure-A filed along with the Complaint. The complainant submitted that the evidence of the complainant was closed by Purshis dated 21.7.2004 and thereafter the witnesses of the respondents also cross examined at length and the matter was fixed for argument of the parties. However, the applicant complainant submitted that the employees whose names were mentioned in Annexure-A attached to the complainant and have disputed the settlement dated 1.9.1998 and also wanted to depose in the matter. The complainants also submitted that the complainants had challenged the order below Exh.C-11 and Exh.U-18 in Writ Petition No.1135 of 1995 and this Court had directed the Industrial Court to decide the issue in respect of the employees who disputed the settlement dated 1.9.1998 entered into between the employees and the Respondent no.1. Therefore, the complainant prayed that in view of the order passed by this Court they would be allowed to depose in the matter by examining 12 workmen. The application was opposed on various grounds including that the matter was very old and the application was

preferred only to delay the matter and that the evidence in the matter of both the parties are over, and therefore, it should have been rejected by the Industrial Court. The learned Industrial Court Judge after hearing both the parties came to the conclusion that in Writ Petition No.1135 of 1995 this Court had directed the Industrial Court to decide the issue in respect of the employees who disputed the settlement dated 1.9.1998 and the present 12 workmen have disputed the settlement, but they have not been examined by the complainant and they should be permitted to depose before the court. Under the circumstances the Industrial Court has allowed the application, which is challenged in this Petition.

. In my considered view, no prejudice would be caused to the petitioner if the respondents are allowed to examine 12 witnesses as the petitioner would get opportunity to cross examine them and shall also be entitled to lead evidence in rebuttal, if any. The argument that the application is only made for the purpose of delaying the matter can also be dealt with direction that the matter would be decided within time bound programme. Under these circumstances, there is no

illegality committed by the Industrial Court in passing the order and as such the petition is devoid of any merits and therefore, stands dismissed. However, it is hereby directed that the Industrial Court, Mumbai shall dispose of the entire matter after examining witnesses and giving opportunity to the present petitioner to lead evidence in rebuttal, if nay, and the entire exercise shall be completed within six weeks from the date of receipt of Writ of this court. With this direction the petition stands disposed of. Rule stands discharged.

Certified copy expedited.